UNITED STATES OF AMERICA	)	
	)	GOVERNMENT REPLY
<b>v.</b>	)	TO DEFENSE RENEWAL OF
	)	<b>MOTION FOR PARTICULARS</b>
Manning, Bradley E.	)	
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	17 April 2012
Joint Base Myer-Henderson Hall	)	·
Fort Myer, Virginia 22211	j	

# RELIEF SOUGHT

COMES NOW the United States of America, by and through undersigned counsel, and respectfully requests this Court deny the defense renewal of its motion for particulars.

## **BURDEN OF PERSUASION AND BURDEN OF PROOF**

As the moving party, the defense has the burden of persuasion on any factual issue the resolution of which is necessary to decide the motion. RCM 905(c)(2). The burden of proof is by a preponderance of the evidence. RCM 905(c)(1).

## **WITNESSES/EVIDENCE**

The United States requests the Court consider the referred charge sheet.

#### **LEGAL AUTHORITY AND ARGUMENT**

The United States is not required to clarify the specific theory it is alleging with respect to Specifications 4, 6, 8, 12, and 16 of Charge II. The defense is on notice that the accused stole, purloined, or knowingly converted property belonging to the United States. The United States has not charged the accused with different offenses in one specification; merely alternative ways of committing the same offense. *See* 18 U.S.C. §641. In this case, the defense is using its request for particulars to restrict the Government's proof relating to the methods of committing the underlying offense. A bill of particulars is not appropriate when used to restrict the Government's proof at trial. *See* RCM 906(b)(6) discussion.

#### **CONCLUSION**

For the reasons stated above, the United States requests this Court DENY the defense renewal of its motion for particulars.

Trial Counsel

I certify that I served or caused to be served a true copy of the above on Mr. David E. Coombs, Civilian Defense Counsel, via electronic mail, on 17 April 2012.

ODEAN MORROW

CPT, JA

Trial Counsel